

1 Salinas about Israel Martinez --

2 A No.

3 Q -- about his status or non-status as an employee
4 with the company?

5 A No. No.

6 Q Have you ever had any conversation with Roy
7 Salinas about Israel's Martinez status or non-status as an
8 employee with the company?

9 A I mean, I've talked to him like in December,
10 somewhere there. He said that they don't talk to him no
11 more.

12 Q December 2015?

13 A If I'm correct, yes.

14 Q Had Salinas -- or has Salinas Express ever
15 borrowed any equipment from SMC Transport?

16 A No.

17 Q Has SMC Transport ever borrowed any equipment
18 from Salinas Express?

19 A No.

20 Q Do you know Art Gutierrez?

21 A I know who he is.

22 Q A mechanic from Houston?

23 A If I'm correct, he's like Rudy's or Roy's
24 cousin. I don't know.

25 Q Have you ever met him?

1 A Yes, I've met him before in Zapata.

2 Q Do you know whether he went on this trip or not?

3 A No.

4 Q Have you ever talked to him about the accident?

5 A No.

6 Q Has Israel Martinez ever worked for SMC
7 Transport?

8 A No.

9 Q Has he ever done any sort of -- any favors or
10 anything for SMC Transport?

11 A No, ma'am.

12 MR. DUNN: I'm just going to object to the
13 form.

14 Q (By Ms. White) Did anyone from the Virginia state
15 police contact SMC Transport after the accident?

16 A I know there was an officer that called. I
17 don't know if Keesha called him or how he came across but
18 I never spoke with nobody.

19 Q Did Keesha ever tell you that a Virginia state
20 police officer called?

21 A If I'm correct, yes, he did, she told me she
22 spoke to somebody.

23 Q And what did she tell you they spoke about?

24 A She just wanted a copy of the police, I mean,
25 the accident report. That's all I know that she asked

1 for.

2 Q She asked for a copy of the accident report?

3 A Yes.

4 Q Did she say whether they had any other
5 conversation?

6 A No.

7 Q Does SMC Transport have its own phone line?

8 A Yes, we have a phone line.

9 Q But is it your cell phone or does it have its
10 own independent number?

11 A Well, I have my cell phone for SMC Transport and
12 I have a fax machine at home.

13 Q So if someone is looking for a number for SMC
14 Transport, would that be your cell phone number.

15 A Yes.

16 Q What is that number?

17 A It's (956) 684-8580.

18 Q And what's the fax number?

19 A (956) 375-2007.

20 Q Do you have to show proof of insurance to the
21 Texas DMV in order to get a registration?

22 A It's the registration of the vehicle, and if I'm
23 correct, yes, a copy of the insurance or something.

24 Q And do you have to physically go to the DMV to
25 get the registration or do you do that online?

1 A You can do it online.

2 Q Is that how you generally do things?

3 A Yes.

4 Q Is that how you got the registration for the
5 vehicle involved in this case?

6 A Yes.

7 Q And what is the proof of insurance form that you
8 have to provide to get the registration look like?

9 A Well, if I'm correct it's just an insurance
10 paper, you know. I mean, I have insurance paper for the
11 vehicles that I have.

12 Q And is it just --

13 A It just says SMC Transport and the date of
14 policy and expiration of policy.

15 Q And does it have the VIN number for the
16 particular?

17 A No.

18 Q No. Did you provide such a paper to the DMV in
19 order to register the vehicle involved in this case?

20 A Yes.

21 Q Is SMC Transport a federally authorized motor
22 carrier?

23 A Yes.

24 Q And the SMC tractor involved in this case
25 displays or at the time of the accident displayed the U.S.

1 DOT certificate number for SMC Transport?

2 A Yes.

3 Q And the tractor involved in the accident was
4 owned by SMC Transport at the time of the accident?

5 A Yes.

6 Q And you were aware that Roy Salinas was a
7 Salinas Express driver at the time of the accident?

8 A Yes.

9 Q And did you make any attempt to remove the SMC
10 Transport logo and DOT number from the vehicle before
11 lending it to Roy?

12 A No.

13 Q I would assume you and Roy didn't sign any
14 written lease agreement there when he borrowed your, the
15 SMC tractor?

16 A No.

17 Q Do you know who paid for the fuel on the trip up
18 to Virginia?

19 A Roy, I know he paid for the fuel.

20 Q Do you know why they wanted to hook up the SMC
21 Transport truck with the Salinas Express truck there in
22 Texas?

23 A Because Roy had to pick up his trailer.

24 Q But that -- that Salinas Express truck that they
25 were hooking up at the truck stop here in Texas was

1 drivable?

2 A Correct.

3 Q Do you know why they wanted to hook them up here
4 in Texas?

5 A I guess to save fuel.

6 Q You guys didn't have any conversation about
7 that?

8 A No.

9 Q Do you know if Roy Salinas kept a log for his
10 trip up to Virginia?

11 A No.

12 Q Do you know if Israel Martinez kept a log for
13 his trip up to Virginia?

14 A No.

15 Q Did you ever ask Roy for any logs?

16 A No.

17 Q Did you ever ask Israel Martinez for any logs?

18 A No.

19 Q Did you ask any driver for any logs for this
20 trip?

21 A No.

22 Q Did you find any logs in the vehicle after the
23 accident?

24 A No.

25 Q Did you find any paperwork in the vehicle after

1 the accident?

2 A No.

3 Q So you've never seen any log for Israel
4 Martinez?

5 A No.

6 Q What kind of paperwork was kept in the SMC
7 Transport truck?

8 A Paperwork in which?

9 Q I mean, did you keep a registration card?

10 A Yes.

11 Q Was there anything else kept of that nature in
12 the SMC Transport truck?

13 A The license plate.

14 Q License plate, registration card, insurance
15 card?

16 A If I'm correct just the registration and
17 registration, inspection of the vehicle.

18 Q Anything else?

19 A Not that I remember.

20 Q Had the vehicle involved in this accident in the
21 one month prior to the accident received any sort of
22 citations for violation of DOT regulations?

23 A I'm not correct. I don't think so. I don't
24 know.

25 Q It may have?

1 A I don't know.

2 Q Do you keep a copy of those anywhere?

3 A I'd say no.

4 Q Are you required to keep a copy of them
5 anywhere?

6 A Not that I know of.

7 Q Do you -- when Roy Salinas worked for SMC, did
8 you pull his driving record?

9 A Yes.

10 Q And did he have to fill out an employment
11 application?

12 A Yes.

13 Q Do you still have those?

14 A Yes.

15 Q How does SMC obtain business? Do you use
16 certain brokers?

17 A Yes.

18 Q What brokers do you use?

19 A I use C.H.~Robinson. They they usually keep me
20 busy.

21 Q Any others?

22 A If I have -- if I don't have a load with
23 C.H.~Robinson, I get on the Internet Truck Stop and I find
24 loads.

25 Q Internet Truck Stop?

1 A Yes.

2 Q Is that a site?

3 A Yes.

4 Q Do -- did the vehicle involved in this accident
5 have any sort of tracking device installed in it?

6 A No.

7 Q Did it have a GPS system?

8 A No.

9 Q And how does SMC keep track of who's assigned
10 what work?

11 A I give them the load, I tell them you're going
12 to hitch to this place, this place and I assign them.

13 Q And do you keep -- do you have paperwork that
14 keeps track of that in any way?

15 A I have a board that I, it's an erasable board
16 and I ride the load from place to destination and then the
17 destination to the place coming back on a weekly basis.

18 Q And then you erase it when the job is done?

19 A Yes.

20 Q And do you keep any sort of physical paper
21 record of, or electronic record of the, who's assigned to
22 do what load?

23 A I have something, some papers that I write the
24 amount and the places that they went, how much I get paid
25 on each load so I can keep track.

1 Q And how long do you keep that for?

2 A About three months.

3 Q Where is that stored?

4 A In my office.

5 Q How does SMC generally pay for fuel for its
6 drivers?

7 A An advance, cash advance.

8 Q And does it send -- do you send your drivers a
9 1099 every year?

10 A Yes.

11 Q So at some point they'll be a 1099 for Roy
12 Salinas?

13 A Yes.

14 Q Besides your personal cell phone does SMC have
15 any company cell phones?

16 A No.

17 Q Are there any written agreements anywhere
18 between Salinas Express and SMC Transport for anything?

19 A No.

20 Q When was SMC Transport formed?

21 A It was in September of 2013.

22 Q And did it have --

23 MR. DUNN: I'm sorry. I didn't understand
24 what you said. What year?

25 THE WITNESS: September of 2013.

1 Q And did -- did it have any predecessor
2 companies? Were you a part of any companies before that?

3 A No.

4 Q What did you do before that?

5 A I used to be a driver.

6 Q Did you ever drive for Salinas Express?

7 A No.

8 MR. DUNN: Are you going to go much longer
9 the reason why is time sake break, maybe?

10 MS. WHITE: Yeah, now would be a good time.

11 THE VIDEOGRAPHER: The time is 10:41 in the
12 morning, and we are off the record.

13 THE VIDEOGRAPHER: The time is 10:48 in the
14 morning, and we are back on the record. You may continue
15 with the deposition, please.

16 Q (By Ms. White) I just want to clarify. Roy
17 initially picked up, picked up the SMC truck involved in
18 this accident at your yard in Weslaco?

19 A Yes.

20 Q And you met him there?

21 A Not at my yard; at the truck stop.

22 Q Oh. So you just told him to go pick it up at
23 your yard and you weren't present when he picked it up?

24 A Correct.

25 Q And the keys were already in it?

1 A Yes.

2 Q Do you receive any payment for the use of your
3 truck on this trip?

4 A No.

5 Q Did you receive any in-kind benefit from anyone
6 for use of your truck for this trip?

7 A No.

8 Q Did Roy call to check in with you at all during
9 this trip up to or back from Virginia?

10 MR. DUNN: Objection, asked and answered,
11 but go ahead answer best you can.

12 Q Well, I think you described he called you after
13 the accident?

14 A Correct.

15 Q Twice?

16 A Once.

17 Q Once?

18 A (Nods head.)

19 Q But did he -- he didn't call you at all on the
20 way up?

21 A No.

22 Q At the truck stop in Weslaco when you went to go
23 help, hook up the two tractors, what physically did you
24 have to do?

25 A I was just showing them how to do it. I just

1 showed them put the chain through here through the side
2 hold tires up and hook it up to the frame.

3 Q So you have to attach a frame to the truck being
4 hauled?

5 A Correct.

6 Q And did you physically how to do that?

7 A I showed him how to do it. I didn't do it. Roy
8 was doing it.

9 Q Roy did, it but you were directing him?

10 A Correct.

11 Q And then, and then did you physically operate
12 the wench or did Roy?

13 A No, Roy did.

14 Q But you directed him how to do it?

15 A Correct.

16 Q So did you physically have to do anything?

17 A No.

18 MS. WHITE: I just want to mark these as
19 the next exhibit. It's the black and white photos of
20 damage of the SMC tractor.

21 MR. HEARN: Are you marking those
22 collectively?

23 MS. WHITE: Yes.

24 MR. HEARN: What would be the next exhibit
25 number?

1 MS. WHITE: That's a good question.

2 THE COURT REPORTER: The next Exhibit
3 Number is 12.

4 MR. HEARN: Twelve. Thank you.

5 (Exhibit marked for identification as
6 Deposition Exhibit Number 12.)

7 Q (By Ms. White) I just want to show you what's
8 been marked for identification purposes as Exhibit 12.

9 Are those photographs of your SMC Transport
10 truck involved in the accident after the accident?

11 A Yes.

12 Q Who took those?

13 A I did.

14 Q When?

15 A When it got back to my house I don't know.

16 Q The same day?

17 A Yes, I repaired it the next day, took out the
18 bumper with four screws and put it back on.

19 Q And why did you take the photographs?

20 A Just to keep a picture of it, you know.

21 Q Did anyone request that you take the
22 photographs?

23 A No.

24 Q Did, what camera did you use to take them?

25 A My cell phone.

1 Q And do you still have those pictures on your
2 cell phone?

3 A Yes.

4 Q What kind of phone do you have?

5 A A Note, a Galaxy Note.

6 Q Please don't delete those.

7 MS. WHITE: Those are all the questions I
8 have.

9 MR. HEARN: I have no questions.

10 EXAMINATION

11 BY MR. FRANKL:

12 Q Sergio, my name is Dan Frankl. I represent
13 Salinas Express. What is your family relationship with
14 Rudy Salinas?

15 A Rudy is my cousin.

16 Q Okay. And how is it -- are you first cousins?

17 A Yes, we are first cousins. Rudy's mom and my
18 dad are brothers and sisters.

19 Q Okay. And so you're also first cousins with
20 Roy?

21 A Correct.

22 Q All right. And Roy worked with -- was he
23 driving his truck that was leased to SMC from either, I
24 think you said August of '14 or January of '15 through
25 September of '15?

1 A Correct.

2 Q Okay. And during that period of time, did he
3 have any accidents?

4 A No.

5 Q And as a result of that relationship of having
6 worked for you, at some point in time he called and said
7 my truck broke down?

8 MR. DUNN: Let me object to the form of the
9 question.

10 Q (By Mr. Frankl) Did Roy Salinas call you and
11 inform you that his truck had broken down?

12 A Yes.

13 Q And did he tell you where it had broken down?

14 A No.

15 Q And did he ask to borrow a truck?

16 A Yes.

17 Q And you directed him to the 2003 Peterbilt that
18 I understand was parked behind in the church parking lot?

19 MR. DUNN: Object to the form of the
20 question. Go ahead and answer.

21 Q (By Mr. Frankl) Did you --

22 MR. DUNN: I guess not -- object to the
23 form of the question.

24 Q Did you direct Roy where he could pick up the
25 2003 Freightliner?

1 A I just told him it was at my yard.

2 Q And the yard you're talking about is the one
3 near the church parking lot?

4 A Correct.

5 Q And you kept the key in it?

6 A Yes.

7 Q And you told him he could use it?

8 A Yes.

9 Q And at that time, it -- was it your
10 understanding that the reason he was borrowing your truck
11 with the wench on it was to go and pick up his truck?

12 A Correct.

13 Q And you had no other understanding of what he
14 was going to do with your truck other than that at that
15 time?

16 A Correct.

17 Q Ultimately, I believe you said within about an
18 hour he called and said, I don't know how to use the
19 wench.

20 A Yes.

21 Q All right. And you made arrangements to meet
22 him, I believe you said at a Valero fuel station?

23 A Yes.

24 Q At that time they were attempting to hook on a
25 Salinas tractor to the SMC tractor?

1 A Correct.

2 Q Did you know at that time why they were putting
3 the Salinas tractor on the SMC tractor?

4 A Yes.

5 Q And what was the reason?

6 A To pick up his trailer.

7 Q Okay. And the reason they were hooking it on
8 rather than drive separately was for what purpose?

9 A To save on the fuel.

10 Q All right. And you showed Roy how to hook them
11 up on the wench?

12 A Correct.

13 Q Did you hook it up so that the front of the
14 Salinas tractor was hooked to the back of the SMC so
15 they're both facing in the same direction, or did you hook
16 it so that the rear of the Salinas tractor was lifted up
17 and the tractors are facing in opposite directions?

18 A They were facing the opposite direction.

19 Q Okay. And that's the way you haul -- that's the
20 way the SMC truck was configured when it left the fuel
21 stop to head off wherever it was going?

22 A Correct.

23 Q And it wasn't until after the accident that you
24 found out that they came to Virginia?

25 A Yes.

1 Q Okay. So when you agreed to lend Roy the truck
2 you didn't know any purpose of the load, or of him
3 borrowing it other than to pick up his tractor?

4 A Correct.

5 Q And you said SMC owns two trucks, one it's owned
6 by your father?

7 A Correct.

8 Q But it's titled in the name of SMC?

9 A Correct.

10 Q And one is owned by you and it's titled this
11 one, the 2003 Freightliner, and that's titled, it's owned
12 by you but titled with SMC?

13 A Correct.

14 Q And then the other seven or eight vehicles are
15 all owned by --

16 A Individuals.

17 Q -- individuals that are leased to SMC?

18 A Correct.

19 Q And what was the total purchase price of this
20 vehicle from Rick Morales?

21 A 10,000.

22 Q Okay. And you gave him 3,000 down and then you
23 made payments until you made the other 7,000?

24 A Correct.

25 Q And if I understand you registered it in August

1 of 2015?

2 A Correct.

3 Q And at that point in time was it inspected?

4 Does it have to pass a state inspection?

5 A No.

6 Q Okay. So there's no requirement that your
7 vehicle is inspected and that it operates properly when
8 you register your vehicle here in Texas?

9 A Yes, it was inspected. If I'm correct, it does
10 have an inspection, it did have an inspection. The
11 inspection is to make sure your lights work, your brakes
12 work, your -- and tell you you have good tires, that's
13 what they check.

14 Q Based on the turbo and the turbo sensors you
15 weren't able to pull a heavy, a full load?

16 A Correct.

17 MR. DUNN: I'm going to object to the
18 question. What time are you talking about?

19 Q (By Mr. Frankl) When you purchased the vehicle
20 and after you made even initial repairs on the turbo and
21 the turbo sensor was it still having problems pulling a
22 full 80,000-pound load?

23 A Yes.

24 Q Did there come a point in time when that problem
25 was corrected?

1 A I never pulled a full load .I never pulled a
2 load with it.

3 Q Okay. Prior to the accident you hadn't pulled a
4 full load with it?

5 A No.

6 Q Have you pulled a full load with it since then.

7 A Yes.

8 Q After this accident did you have to make any
9 additional repairs to allow the vehicle to pull a full
10 load?

11 A No.

12 Q Okay. So by October 15th of 2015, in fact, it
13 was a fully functional and operational tractor?

14 A Correct.

15 Q And you indicated -- well, at any time prior to
16 lending giving or lending this vehicle to Roy Salinas had
17 you taken the tractor out of state?

18 A No.

19 Q Had the tractor been driven around town?

20 A Yes, when I was trying to test drive it.

21 Q You indicated that you purchased the wench
22 around, sometime in 2014?

23 A Correct.

24 Q What was the purpose that you had, you bought
25 that wench?

1 A To pick up broken down trucks.

2 Q Okay. And you -- SMC owned that wench at the
3 time period that Roy Salinas worked there?

4 A Correct.

5 Q And so he -- he knew you owned that?

6 A Yes.

7 Q And if I understood your testimony that wench
8 normally was on the 1997 Classic?

9 A 1999.

10 Q 1999 Classic, your father's vehicle?

11 A That one is mine.

12 Q That one is yours?

13 A Yeah.

14 Q So who's is this 2003?

15 A Mine, SMC Transport.

16 Q Okay. All right. So the wench was normally on
17 the 1999 Classic?

18 A Yes.

19 Q All right. And at some point in time you needed
20 to use that vehicle to run some loads?

21 A Correct.

22 Q And so you transferred it over to the 2003
23 Peterbilt?

24 A It's a 2003 Freightliner.

25 Q Freightliner. I'm sorry.

1 And at any point in time, did you just have
2 the wench somewhere on your yard not collect, not
3 connected to any vehicle?

4 A Yes, at a time.

5 Q Okay. But at the time Roy asked to borrow your
6 2003 Freightliner it was already attached?

7 A Correct.

8 Q Do you know how Roy got to the yard where you
9 stored your vehicle on the day he picked it up?

10 A No.

11 Q And do you personally, and as a representative
12 of SMC, know whether or not Rudy Salinas was aware of any
13 of the activities with regard to Roy borrowing your truck
14 or taking it up to Virginia?

15 MS. WHITE:: I'm going object to the form of
16 the question.

17 A I guess Rudy knew. I mean, it was Roy's
18 brother, you know. I didn't talk to Rudy.

19 Q So you're assuming Rudy may have known, but you
20 don't have any direct knowledge yourself that Rudy knew
21 Roy was borrowing your vehicle or taking it to Virginia?

22 A I never spoke with Rudy.

23 Q Okay. And so the same would be true, you don't
24 have any knowledge that Rudy knew that Roy was connecting
25 another Salinas vehicle to the back of the SMC tractor to

1 travel to Virginia?

2 A I'm not sure, sir.

3 Q You have no way of knowing?

4 A Pos, of course not.

5 Q Okay. Now, when you registered your vehicle,
6 it's my understanding you had to have proof insurance for
7 that vehicle to have it properly be registered?

8 A Correct.

9 Q And so when you registered it in August, did you
10 have insurance on that vehicle?

11 A I have -- I have a form that says SMC Transport
12 the policy with it just says the policy.

13 Q But my question is: Did you tell your agent
14 that you wanted that particular truck listed on your
15 policy?

16 A I'm not correct -- I'm not sure on that, sir.

17 Q You don't know whether you told them?

18 A I don't remember that day.

19 Q At any point in time after this accident, did
20 you tell Roy Salinas or Rudy Salinas or Eddie Lozano or
21 Art Gutierrez that you did not have insurance on your
22 tractor that they had, were using or had been in?

23 A I don't remember that, no.

24 Q So you may have told them you didn't have
25 insurance?

1 A I don't know. I'm not sure, sir.

2 Q Do you -- is it your understanding that you did
3 have insurance on the date of this accident on that
4 tractor?

5 A Yes.

6 Q And did -- at the time you lent Roy the tractor,
7 did you think you had insurance on it?

8 A I knew if Roy would use my tractor, I knew that
9 Roy's or I thought Roy's insurance would cover because it
10 was for their purpose; it wasn't for mine. They have
11 insurance on their truck.

12 Q I understand that. But my question is: Did you
13 think that SMC had insurance on their own tractor on the
14 day you lent the tractor to Roy?

15 A I'm not sure, sir.

16 Q Either you did or you didn't?

17 A Like I said, I don't know if we had insurance or
18 did not on the day. I don't know.

19 Q Have you after this accident added that tractor
20 to your insurance policy?

21 A I called them and found out -- I did add -- it
22 is, I do have insurance on the vehicle.

23 Q Did you call them after this accident and add
24 insurance to that tractor?

25 A Yes.

1 Q Okay. So at the time of this accident that
2 tractor was not on your insurance policy?

3 MR. DUNN: Objection. Object to the form.

4 Q (By Mr. Frankl) At the time of this accident was
5 your 2003 Freightliner specifically listed on your policy?

6 MR. DUNN: Objection, asked and answered.

7 Answer the best you can.

8 A If I'm correct, like I said, I don't know if it
9 was already added, but I know prior to -- I mean, like in
10 October I added. I mean, I called them and I told them
11 that I needed an insurance cashed for the vehicle and they
12 gave me an insurance card.

13 Q And that was after this accident?

14 A Correct.

15 Q If you had added the tractor to the insurance
16 policy before the accident, why would you have to call and
17 add it after the accident?

18 A Because I was updating all my, my binders in
19 each truck and that truck did not have a binder, so I
20 needed a copy of all my tractors, make sure everything was
21 on file for all my tractors, leased on to me and everybody
22 make sure they have all their paperwork.

23 Q You indicated in your earlier testimony that you
24 had a conversation with Roy Salinas about Israel Martinez
25 in December of 2015.

1 What was said in that conversation?

2 A It was not with Roy Salinas on that. I said I
3 met with Ruben Salinas at a truck stop and we just said
4 hello to each other.

5 Q You indicated in your testimony that you were
6 aware that your employee Keesha -- what's her last name?

7 A Guerrero.

8 Q -- Guerrero, do you know whether she called the
9 police to initiate that call or if the police called her
10 first?

11 A I'm not sure, sir.

12 Q Okay. How did you find out about the
13 conversation between the Virginia state police and, and
14 Keesha?

15 A Keesha told me that she requested a police
16 accident report because we had to show it to our
17 insurance.

18 Q Have you been told by SMC's insurance that your
19 vehicle was not covered in this accident?

20 MR. DUNN: I'm going to object to that. I
21 mean, we're going far field of what's the issues in this
22 case.

23 MR. FRANKL: I think that the insurance on
24 the vehicle was on the notice so I'm just saying.

25 MR. DUNN: What notice?

1 MR. FRANKL: Pardon?
2 MR. DUNN: What notice?
3 MR. FRANKL: The issue of insurance is on
4 the notice.

5 MR. DUNN: And I objected to that.

6 MR. FRANKL: Well, he can answer while
7 we're here unless you're going to direct him not to answer
8 and then potentially have to take that up later.

9 0 (By Mr. Frankl) But have you been told --

10 MR. DUNN: I'm not going to direct him not
11 to answer, but the objection stands.

12 MR. FRANKL: I understand.

13 Q Have you been told by your insurance that the
14 vehicle was not covered under the policy SMC had at the
15 time of this accident happened?

16 A I'm not sure.

17 Q Are you aware that the state trooper that spoke
18 with Keesha indicated that she informed him that Israel
19 Martinez was a regular driver for SMC?

20 A No, he was never a driver for SMC.

21 Q And SMC authorized Roy Salinas to use the 2003
22 tractor that he took up to Virginia?

23 MR. DUNN: I'm going to object to the form
24 of the question. Authorization, I'm not sure what you
25 mean by that or authorize. But go ahead answer as best

1 you can.

2 A Roy was a driver for SMC Transport. He had a
3 clean driving record and he had an application on file and
4 everything, so I did lend Roy the truck.

5 Q Okay. So you as the owner of SMC authorized him
6 to use the truck?

7 A I loaned. I said he could use it.

8 Q Who's your cell phone provider?

9 A T-Mobile.

10 Q And was it T-Mobile at the time of this
11 incident?

12 A I think it was.

13 Q Whenever one of your trucks goes out of state is
14 SMC required to maintain logs for that vehicle?

15 A Correct.

16 Q And did you ever ask for the logs with regard to
17 this trip to Virginia and back?

18 A No, because it was not used for SMC.

19 Q Who informed you that Israel Martinez was
20 driving at the time of the accident?

21 A Roy Salinas told me that the truck was in an
22 accident. He didn't say Israel was driving but, of
23 course, now the accident. I mean --

24 Q Well, when were you first made aware that Israel
25 Martinez was the driver?

1 A If I'm correct when the officer called or Keesha
2 called the officer or...

3 Q Did you have Israel Martinez drug or alcohol
4 tested after this accident?

5 A No, because he was not an employee of SMC
6 Transport.

7 Q You said that this truck didn't have a binder
8 with insurance information in it?

9 A No.

10 MR. DUNN: Object to the form. Go ahead
11 and answer.

12 Q (By Mr. Frankl) You said that the 2003
13 Freightliner didn't have a binder with the insurance
14 information in it?

15 MR. DUNN: Object to the form. Go ahead
16 and answer.

17 A When they came -- when they came when I put the
18 bumper on it and I was, I needed to make sure everything
19 was good to go on a load, I fixed the bumper and I said,
20 okay, let me make sure everything is there, logbooks,
21 everything, a binder and nothing was in the truck.

22 Q Was there a binder with insurance information in
23 the truck when you lent it to Roy Salinas?

24 A I'm not sure it was in there.

25 Q If there wasn't a binder, do you know how the

1 state police would have known who SMC's insurance was with
2 at the time of the accident?

3 A Well, it does have SMC on the door. I mean --

4 Q No, but how would they know who the insurance
5 was for SMC who the company was if there wasn't a binder
6 in the truck?

7 A I'm not sure.

8 Q You don't know?

9 A No, sir.

10 Q Was there registration in the truck when they
11 brought it back to you?

12 A Nothing was in the truck.

13 Q Nothing, all the paperwork, registration,
14 insurance binder all of that was not in the truck when you
15 got it back?

16 A Nothing was in the truck. It was cleaned.

17 There was nothing in the truck.

18 Q Did you ask anybody what happened to those
19 documents?

20 A No, sir.

21 Q Were those documents in the truck when you gave
22 it to Roy Salinas?

23 A I'm not sure, sir.

24 Q Did you know that the SMC truck was going to go
25 outside of Texas?

1 A No.

2 Q When your truck left and when Roy Salinas picked
3 it up, do you know how much fuel it had in it?

4 A No.

5 Q When he brought it back, do you know how much
6 fuel it had in it?

7 A No.

8 Q Was there any damage to the headlight on the
9 driver's side?

10 A It just got loose.

11 Q And if I understand your testimony, as far as
12 you are aware as owner of SMC, there was no cost for
13 repairing that vehicle?

14 A No cost.

15 Q And have you already sent Roy Salinas his 1099
16 for 2015?

17 A Yes.

18 MR. FRANKL: Thank you.

19 I don't have any other questions.

20 MR. HEARN: I do have one.

21 Can I get that out real quick.

22 MS. WHITE: Absolutely.

23 EXAMINATION

24 BY MR. HEARN:

25 Q You testified I believe earlier in response to

1 Ms. White's question that when Roy was communicating with
2 you about borrowing the SMC truck that you might have
3 spoken with Rudy Salinas but you didn't remember. And
4 then in response to Mr. Frankl's question you said you did
5 not talk to Rudy Salinas.

6 So I need to know which is it? Is it your
7 testimony here today that you might have spoken to Rudy or
8 you don't remember or that you are certain you did not
9 speak to Rudy in conjunction with Roy borrowing the
10 vehicle?

11 A That I -- that I -- I don't remember I spoke
12 with Rudy. I know I spoke with Roy. I do not know like I
13 told I him, I don't know.

14 MR. HEARN: Okay. Thank you.

15 REEXAMINATION

16 BY MS. WHITE:

17 Q When you went to go show Roy how to operate the
18 wench your instruction to him was to, to attach them back
19 to back?

20 A That's what I -- I showed him how to do it back
21 to back.

22 Q Okay. Were they trying to do it the other way
23 around?

24 A No, they just didn't know how to do it.

25 Q Okay.

1 A They didn't know how to tie it.

2 Q Was there ever any suggestion of doing it the
3 other way around?

4 A I never suggested it, but it's a little bit more
5 complicated.

6 Q All right. Did they explain to you what they
7 were going to do with Roy's truck once they reached it?

8 A Bring it to a mechanic.

9 Q Did they tell you what was wrong with Roy's
10 truck?

11 A No.

12 Q They didn't tell you the differential was messed
13 up?

14 A No.

15 Q Did they ask you if it was going to be towable
16 if they hooked it up that way because the differential was
17 messed up?

18 A No.

19 Q And did you ever speak to a Virginia state
20 trooper?

21 A No.

22 Q Did you ever get a message for you to call and
23 talk to a Virginia state trooper?

24 A No.

25 Q Did you personally ever attempt to call Virginia

1 state trooper?

2 A No.

3 MS. WHITE: That's all I have.

4 MR. FRANKL: No, additional questions.

5 MR. DUNN: He'll read. That's it.

6 THE VIDEOGRAPHER: The time is 11:24 in the
7 morning, and we are going off the record.

8
9 (Signature having been requested, the
10 deposition was concluded at 11:24 a.m.)

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ERRATA SHEET -- CHANGES AND SIGNATURE

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SERGIO CUELLAR

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8 I declare under penalty of perjury that the
9 foregoing is true and correct.

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SERGIO CUELLAR

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SUBSCRIBED AND SWORN TO BEFORE ME, the
undersigned authority, by the witness, SERGIO
CUELLAR, on this the _____ day of

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NOTARY PUBLIC IN AND FOR
THE STATE OF _____

22 My Commission Expires: _____
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25

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA
3 ROANOKE DIVISION

4 BRANDON LESTER

§

4 VS.

§

CIVIL ACTION NO.
7:15-CV-665

5 SMC TRANSPORT, LLC AND ISRAEL
6 MARTINEZ, JR. AND SALINAS
7 EXPRESS, LLC

§
§
§

7 REPORTERS CERTIFICATION
8 OF SERGIO CUELLAR
9 April 20, 2016

10 I, Annette E. Escobar, Certified Shorthand
11 Reporter in and for the State of Texas, hereby certify to
12 the following:

13 That the witness, SERGIO CUELLAR was duly
14 sworn by the officer and that the transcript of the oral
15 deposition is a true record of the testimony given by the
16 witness;

17 That the deposition transcript was
18 submitted on _____, 2016, to the witness or
19 to the attorney for the witness for examination,
20 signature, and return to me by _____, 2016;

21 That the amount of time used by each party
22 at the deposition is as follows:

23 Plaintiff. JOHNEAL WHITE (2H51M) Attorney for

24 Defendant; LAWRENCE DUNN (0H14M) Attorney for

25 DAVID HEARN (0H01M) Attorney for Defendant.

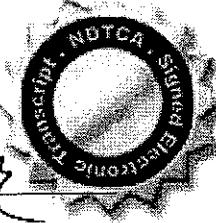
That pursuant to information given to the

1 deposition officer at the time said testimony was taken,
2 the following includes counsel for all parties of record:

3 Johneal White, Attorney for Plaintiff(s)
4 Lawrence Dunn, Attorney for Defendant(s)
5 David Hearn, Attorney for Defendant(s)
6 Daniel Frankl, Attorney for Defendant(s)

7 I further certify that I am neither counsel
8 for, related to, nor employed by any of the parties in the
9 action in which this proceeding was taken, and further
10 that I am not financially or otherwise interested in the
11 outcome of this action.

12 Certified to by me on this 10th day of May,
13 2016.

14 
15 ANNETTE E. ESCOBAR
16 CSR#5475, Exp: 12/31/17
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